

REMARKS

Upon entry of this paper, claims 1, 8, 16, and 17 have been amended, no additional claims have been canceled, and no claims have been added as new claims. Thus, claims 1-2, 4-9, and 11-18 are presently pending in this application. No new matter has been added.

Applicants appreciate the clarification in the Advisory Action that the claims have only been rejected under 35 USC § 103, and not 35 USC § 102. The Final Office Action of March 7, 2006 was unclear because all references to the § 102 rejections were under the section of “Response” to Applicants’ arguments instead of under the “Rejection” section; however, the comments provided by the Examiner indicated that the Examiner “traversed” the Applicants’ arguments, and the Examiner “maintains the rejection of the claims”. Therefore, Applicants’ remarks were necessary because of the conflicting nature of the Examiner’s remarks. Applicants are proceeding with the prosecution of this case, now with the understanding that there are no novelty related issues of patentability.

Claim Rejections – 35 USC § 103*Claims 1-2, 4-9 and 11-18*

Claims 1-2, 4-9 and 11-18 were rejected under 35 USC 103(a) as being unpatentable over Rappoport (US Patent 6,614,430) and in view of Kask (US Patent 6,542,937). The Examiner relies upon suggestion or motivation in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine multiple reference teachings, but provides no evidence of such knowledge. The Examiner has also combined two references without providing any evidence of a reasonable expectation of success. Applicants, therefore, respectfully traverse this rejection in view of the following remarks.

There is no suggestion or motivation in the references to combine them in the manner described in the Office Action, and there is expectation of success. The Examiner asserts that “[i]t would have been obvious to one of ordinary skill in the art to combine the two references to object-oriented methods and data to eliminate the need for generic data files while facilitating

compatibility” (see OA mailed 03/07/06, paragraph 12) as the motivation to combine. However, this motivation is not stated in Rappoport, in fact there is no mention in Rappoport of generic data files or native data files, nor does the method in Rappoport lend itself to such an object.

The Examiner’s assertion cites page 8, lines 35-55 of Kask in support, however, the reference to eliminating the need for generic data files in Kask is in the context of the paragraph in which the desire is stated. This context is “[i]n the disclosed embodiments and examples, the interface may be provided between a conventional or commercially available 2-D CAD system and an object oriented bend model system (*see* Kask, page 8, lines 38-40)” . . . “the features of the invention provide an interface by which a 2-D CAD system may access data from the object oriented bend model system and in which data may be transferred between the systems in real time to permit editing and updating of the part model within and from both applications.” (*see* Kask, page 8, lines 48-52). Thus, Kask is directed to the specific problem of eliminating generic files in the process of transferring data between a 2-D CAD program and a Bend Model system. There is no motivation, teaching, or suggestion of transferring data (or using the technology disclosed in Kask to transfer data) between two CAD systems, such as in Rappoport. Therefore, the Examiner is relying, as confirmed in the Office Action, on the assertion that “one of ordinary skill in the art” would combine the two references. Applicants respectfully traverse this assertion.

Specifically, Applicants submit that, under MPEP §2144.03 “[a]ny rejection based on assertions that a fact is well-known or is common knowledge in the art without documentary evidence to support the examiner's conclusion should be judiciously applied. . . . It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based. *See* Zurko, 258 F.3d at 1386, 59 USPQ2d at 1697; Ahlert, 424 F.2d at 1092, 165 USPQ 421.”

Applicants submit that the absence in the specific references of a motivation to combine, and the reliance by the Examiner upon “one of ordinary skill in the art” to be motivated to combine, results in a failure by the Examiner to adequately establish a *prima facie* case of unpatentability. Applicants hereby specifically request that this rejection be withdrawn or that

the Examiner provide documentary evidence to support the Examiner's conclusion, as required by MPEP §2144.03.

In further support of Applicants' position, Applicants submit that the mere statement of an objective to eliminate the need for generic data files (in Kask) is not sufficient motivation to combine, nor does it necessarily result in a reasonable expectation of success. As Rappoport clearly describes, "[t]o exchange data between different software systems, there must be a way to get data in and out of the systems involved. The possibility and ease of doing this depends on the software architecture of the system. For example, *most current CAD systems include data classes which are not easily automatically inserted into or removed from the system*. The user can, of course, see the data, but *it is not easy to extract it through a computer program*. The reason for this situation is threefold. First, most CAD systems were designed to be interactive; hence, the software designers have not spent much effort in providing means for automatic data communication. Second, most CAD vendors consider their data representation to be a trade secret, hence they try to keep it proprietary. Third, it is simply not that easy to provide elegant ways for automatic data extraction and creation (emphasis added)." (see Rappoport, column 2, lines 47-62).

As stated by Rappoport, it is an extremely difficult task, even for one of skill in the art such as Rappoport, to make two different CAD programs interact. There has been no evidence provided, either in the references themselves or in the form of documentary evidence by the Examiner, as to whether the method of elimination of generic data files in Kask would be operable with the method of conversion or translation from a source format of the first CAD application to an intermediate format, and then finally to a final or second CAD application format. Without any evidence of a reasonable expectation of success, there can be no rejection for obviousness.

The system of Kask makes the process of making two different CAD programs interact easier by limiting the interaction to being between a 2-D CAD system and a Bend Model system. The Rappoport system takes a different approach from the present invention and does not work with native data and sub-sets of native data, as claimed in the present application. The solution in Kask to "eliminate the need for generic data files" is likewise insufficient to suggest

combination with Rappoport's method for exchanging data. In addition, there has been no evidence provided by the Examiner that the solution provided by Kask for transferring data between a 2-D CAD system and a Bend Model system would be operable if applied to the CAD to CAD system and method for the exchange of CAD data provided in Rappoport.

The combination of Kask and Rappoport has no motivation for its combination, and has no demonstrated expectation of success. There has furthermore been no evidence provided for the teaching or suggestion of the motivation for combination.

In addition, with regard to the combination of Rappoport with Kask, such combination fails to teach or suggest all elements of the present invention as claimed. Applicants reiterate that Rappoport translates "the specification data into a target data format" (page 6, paragraph 2).

As such, Rappoport requires conversion or translation from a source format of the first CAD application to an intermediate format, and then finally to a final or second CAD application format. Such multiple conversions/translations create multiple opportunities for losses of data and portions of data. There is no discussion in Rappoport of sharing the "native data" between the first CAD application and the second CAD application.

Accordingly, the combination of Rappoport with Kask fails to teach or suggest all claimed elements of the present application. As clearly indicated in the present application and pending claims, the present invention is directed to "sharing data between a first computer aided design (CAD) application and a second CAD application . . ." where the ". . . feature information and feature history relating to a modeled object the data [are] stored as native data and a sub-set of native data . . ." and the second CAD application is provided with "access to the feature information and feature history stored by the first CAD application . . ." and the ". . . sub-set of native data results from processing the native data with at least one routine from a first library of executable routines to derive the sub-set of native data . . ." (*see claim 1, see also claims 8 and 14-18*). This provision of access to native data and sub-sets of native data resulting from an executable routine selected from a library is nowhere discussed, taught, or suggested in Rappoport or Kask, or in their combination.

As stated in previous Replies, unless a *prima facie* case of unpatentability with respect to known facts is established, Applicants are not obliged to proffer any evidence of nonobviousness. To establish a *prima facie* case there must be some suggestion or motivation, either in the prior art or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine multiple reference teachings. There must then be a reasonable expectation of success. Finally, the prior art reference or references (when combined) must teach or suggest all the claimed limitations.

Applicants respectfully submit that there is no motivation for the combination of Rappoport and Kash and there has been no documentary evidence provided to the contrary, and even if combined there is no evidence of an expectation for success, and the combination of Rappoport and Kash fails to teach or suggest every characteristic of Applicants' claims 1, 8, and 14-18, and all claims depending therefrom (namely, claims 2, 4-7, 9, and 11-13) which are patentable based on their dependence upon allowable base claims in addition to their own claimed characteristics specified in each claim. Applicants further submit that all claims of the present invention are not obvious with respect to, and are therefore allowable over, the cited documents. Reconsideration and withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing, it is respectfully submitted that this application is now in condition for allowance. Applicants courteously solicit allowance of the claims in the form of a Notice of Allowance. Should there be any outstanding issues of patentability following the entry of this response, a telephone interview is respectfully requested to resolve such issues.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Applicant believes no fee is due with this statement. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. PAS-171 from which the undersigned is authorized to draw.

Dated: July 27, 2006

Respectfully submitted,

By


Sean D. Detweiler

Registration No.: 42,482

LAHIVE & COCKFIELD, LLP

28 State Street

Boston, Massachusetts 02109

(617) 227-7400

(617) 742-4214 (Fax)

Attorney/Agent For Applicant